



**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE & J.M.F.C.,
AT: MAGADI.**

Present:

Sri. Sandeep S. Reddy, B.A., LL.B.,
Addl. Sr. Civil Judge & JMFC., Magadi.

DATED: THIS THE 28th DAY OF MARCH, 2024

O.S.No.12/2019

Plaintiff : Smt. K. Preethi,
D/o. Krishnappa @ Badhresh,
Aged about 23 years,
R/at: Kethohalli Village,
Chunchanakuppe Post,
Tavarekere Hobli,
Bangalore South Taluk.

(By **Sri. N.G.S.** Advocate)

--V/s--

Defendants : 1. Sri. Krishnappa @ Badhresh,
S/o. Late. Munikariyappa,
Aged about 60 years,

2. Smt. Sumithra,
W/o. Krishnappa,
Aged about 47 years,

3. Sri. Harshvardhan @ Harsha,
S/o. Krishnappa,
Aged about 23 years,

D1 to 3 are R/at: Kethohalli Village,
Chunchanakuppe Post,
Tavarekere Hobli,

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Bangalore South Taluk.

4. Sri. Harish,
S/o. V. K. Chandru,
Aged about 32 years,
R/at: Narve Village, Narvey Post,
Belur Taluk, Hassan District.
5. Sri. Deelip Kumar,
S/o. R. N. Jayaram,
Aged about 26 years,
R/at: No.30, 3rd Cross,
Govindappa Layout,
GKM Village, Jaraganahalli,
Bangalore - 560 078.

(D1 to 3 by **Sri. G.H.M.** Advocate)(D4 **Exparte**)(D5 by **Sri. A.K.H.** Advocate)**ORDER ON IA NO.9 U/O.I R.10(2) of C.P.C.,**

The aforesaid application is filed by the impleading applicant praying to implead him defendant No.4 in the aforesaid suit.

2. The aforesaid suit is for partition and separate possession and consequential reliefs.

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3. The impleading applicant has stated in the accompanying affidavit that, in the month of November 2019 she got severe financial problem and was unable to maintain her family. That, she left her parents' house after her marriage. That, the plaintiff had approached her and had offered to sell her ten sites out of the share in the schedule property and had taken Rs.10 lakhs from the proposed defendant No.4. That, the plaintiff had collected the cheque on 15.11.2019 and had collected money through the cash. That, the plaintiff is not trying to sell the schedule property to the prospective pruchasers of the sites and hence the impleading applicant wants to get herself impleaded based on the agreement to sell dated: 15.11.2019 executed by the plaintiff in favour of defendant.

4. The plaintiff has filed objections to the aforesaid application. The plaintiff has stated that, the proposed defendant No.5 is not the family member and the averments made in the affidavit is not correct. That the plaintiff had availed loan of Rs.6 lakhs and that the proposed defendant No.5 had misused the loan documents signed by plaintiffs.

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5. Heard learned advocate for plaintiff and defendant.
6. Considering the contentions of the parties, following points arise for my consideration.
 1. Whether the impleading applicant has made out a case to implead him as proposed defendant No.4 in the aforesaid suit?
 2. What order?
7. My findings for the above points are as under.

Point No.1	:	In the Negative
Point No.2	:	As per final order For the following,

REASONS

8. **Point No.1**:- The proposed defendant has submitted that, he has agreed to purchase the sites from the plaintiff. That, the plaintiff had agreed to sell the sites through agreement and had executed the agreement to sell dated: 15.11.2019.

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9. The aforesaid suit is for partition. The proposed defendant wants to seek for the relief of specific performance of the contract in the aforesaid suit for partition. The aforesaid suit is filed by the plaintiff against the defendants, who are her relatives. The real controversy between the parties is with respect to the partition of the properties.

10. The proposed defendant is not a proper and necessary party to the aforesaid suit. The proposed defendant has no rights in the ancestral property. She has got a different forum to get her agreement of sale dated: 15.11.2019 to be specifically enforced. Hence, the aforesaid application filed by proposed defendant No.5 is not maintainable. Hence, I answer point No.1 in the Negative.

11. **Point No.2:-** In view of reasons on point no.1, and in the interest of Justice and equity, I proceed to pass the following,

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ORDER

**IA No.9 filed U/o. I Rule 10 (2) R/w. Sec.151 of
CPC by the impleading applicant praying to implead
her as proposed defendant No.5 is hereby rejected.**

The parties to bear their respective costs.

Call on 04.06.2024.

(Dictated to the Typist directly on the computer, typed by her, corrected by me and then pronounced in the open court on this the **28th day of March, 2024.**)

**(Sandeep S. Reddy)
Addl. Sr. Civil Judge & JMFC.,
Magadi.**